

1 **§39A-4-1. Short title.**

2 This article may be cited as the "Uniform Real Property
3 Electronic Recording Act".

4 **§39A-4-2. Definitions.**

5 As used in this article:

6 (a) "Document" means information that is:

7 (1) Inscribed on a tangible medium or that is stored in an
8 electronic or other medium and that is retrievable in perceivable
9 form; and

10 (2) Eligible to be recorded in the land records maintained by
11 a county clerk;

12 (b) "Electronic" means relating to technology having
13 electrical, digital, magnetic, wireless, optical, electromagnetic
14 or similar capabilities;

15 (c) "Electronic document" means a document that is received by
16 a county clerk in an electronic form;

17 (d) "Electronic signature" means an electronic sound, symbol
18 or process attached to or logically associated with a document and
19 executed or adopted by a person with the intent to sign the
20 document;

21 (e) "Person" means an individual, corporation, business trust,
22 estate, trust, partnership, limited liability company, association,
23 joint venture, public corporation, government or governmental
24 subdivision, agency or instrumentality or any other legal or

1 commercial entity; and

2 (f) "State" means a state of the United States, the District
3 of Columbia, Puerto Rico, the United States Virgin Islands or any
4 territory or insular possession subject to the jurisdiction of the
5 United States.

6 **§39A-4-3. Recording of electronic documents.**

7 (a) In this section, "paper document" means a document that is
8 received by the recorder in a form that is not electronic.

9 (b) A county clerk:

10 (1) Who implements any of the functions listed in this section
11 shall do so in compliance with standards established by the Joint
12 Commission on Technology, in consultation with the county clerks of
13 West Virginia, pursuant to section five of the Uniform Real
14 Property Electronic Recording Act;

15 (2) May receive, index, store, archive and transmit electronic
16 documents;

17 (3) May provide for access to, and for search and retrieval
18 of, documents and information by electronic means;

19 (4) Who accepts electronic documents for recording shall
20 continue to accept paper documents as authorized by state law and
21 shall place entries for both types of documents in the same index;

22 (5) May convert paper documents accepted for recording into
23 electronic form;

24 (6) May convert into electronic form information recorded

1 before the recorder began to record electronic documents;

2 (7) May accept electronically any fee that the county clerk is
3 authorized to collect; and

4 (8) May agree with other officials of a state or a political
5 subdivision thereof, or of the United States, on procedures or
6 processes to facilitate the electronic satisfaction of prior
7 approvals and conditions precedent to recording and the electronic
8 payment of fees.

9 **§39A-4-4. Administration and standards.**

10 (a) The Joint Commission on Technology, in consultation with
11 the county clerks of West Virginia, shall adopt standards to
12 implement the Uniform Real Property Electronic Recording Act.

13 (b) To keep the standards and practices of county clerks in
14 this state in harmony with the standards and practices of recording
15 offices in other jurisdictions that enact substantially the Uniform
16 Real Property Electronic Recording Act and to keep the technology
17 used by recorders in this state compatible with technology used by
18 recording offices in other jurisdictions that enact substantially
19 the Uniform Real Property Electronic Recording Act, the Joint
20 Commission on Technology, in consultation with the county clerks of
21 West Virginia, so far as is consistent with the purposes, policies
22 and provisions of the Uniform Real Property Electronic Recording
23 Act, in adopting, amending and repealing standards shall consider:

24 (1) Standards and practices of other jurisdictions;

1 (2) The most recent standards promulgated by national
2 standard-setting bodies, such as the Property Records Industry
3 Association;

4 (3) The views of interested persons and governmental officials
5 and entities; and

6 (4) The needs of counties of varying size, population and
7 resources.

8 **§39A-4-5. Uniformity of application and construction.**

9 In applying and construing the Uniform Real Property
10 Electronic Recording Act, consideration shall be given to the need
11 to promote uniformity of the law with respect to its subject matter
12 among states that enact it.

13 **§39A-4-6. Relation to Electronic Signatures in Global and National
14 Commerce Act.**

15 The Uniform Real Property Electronic Recording Act modifies,
16 limits and supersedes the federal Electronic Signatures in Global
17 and National Commerce Act but does not modify, limit or supersede
18 Section 101(c) of that act or authorize electronic delivery of any
19 of the notices described in Section 103(b) of that act.

20 **§39A-4-7. Secretary of State; liability.**

21 The Secretary of State, serving as authority and repository of
22 signature keys for governmental entities shall revoke any signature
23 key when the secretary has reason to believe that the digital
24 signature key has been stolen, fraudulently used or otherwise

1 compromised. This article creates no liability upon the Secretary
2 of State for any transaction compromised by any illegal act or
3 inappropriate uses associated with electronic signatures.

NOTE: The purpose of this bill is to establish the Uniform
Real Property Electronic Recording Act.

This article is new; therefore, strike-throughs and
underscoring have been omitted.